United Nations S/AC.37/2002/23

Security Council

Distr.: General
17 April 2002
English
Original: French

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 17 April 2002 from the Permanent Mission of Romania to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Romania to the United Nations presents its compliments to the Chairman of the Security Council Committee established by resolution 1267 (1999) and has the honour to transmit herewith the report of the Government of Romania on the implementation of Security Council resolution 1390 (2002) (see annex).

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Annex to the note verbale dated 17 April 2002 from the Permanent Mission of Romania to the United Nations addressed to the Chairman of the Committee

[Original: English]

Measures taken by the Government of Romania to implement Security Council resolution 1390 (2002): report to the Security Council Committee established pursuant to paragraph 6 of Security Council resolution 1267 (1999)

INTRODUCTION

The present report is submitted in accordance to paragraph 6 of resolution 1390 (2002) adopted by the United Nations Security Council on 16 January 2002, to the Committee established pursuant to paragraph 6 of the United Nations Security Council resolution 1267 (1999)[1], providing with the steps that the Government of Romania has taken to implement the resolution 1390 (2002).

With a view to strengthening the legislation on combating international terrorism, the Government of Romania has undertaken all the necessary measures for implementing the relevant resolutions of the United Nations Security Council.

As it was underlined in the previous national report submitted pursuant to paragraph 6 of the United Nations Security Council resolution 1373(2001), concerning counter-terrorism (S/2001/1339), the Government of Romania adopted a series of decisions and emergency ordinances, as follows:

(1) Decision of the Government of Romania no. 918/2001 on the implementation of the United Nations Security Council resolution 1333/2001, regarding the situation in Afghanistan, entered into force on 13 September 2001 (Annex 1);

(2) Government Emergency Ordinance No. 141 / 2001, concerning the punishment of certain terrorist acts and breaches of the peace, entered into force on 31 October 2001 (Annex 2).

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[1] See Committee 1267

(3) Government Emergency Ordinance No. 153 2001 for the implementation of the United Nations Security Council resolution 1373(2001) concerning counter-terrorism, entered into force on 3 December 2001 (Annex 3).

(4) Government Emergency Ordinance No. 159 2001 for the prevention of use of the banking and financial system for the financing of acts of terrorism, entered into force on 14 December 2001 (Annex 4).

Recognising the importance of the United Nations Security Council resolution 1390 (2002) of 16 January 2002, Romania has been working constantly so that no foreign or international terrorist organisations would make use of its national territory.

Therefore, procedures have been initiated for adopting the Decision of the Romanian Government to implement the United Nations Security Council resolution 1390(2002) regarding the sanctions regime previously imposed by the resolutions 1267(1999) and 1333(2000). A document initiated by the Romanian Intelligence Service, entitled "the National Strategy for the prevention and combating terrorism" is also under adoption procedure by the Supreme Council of National Defence.

This report will focus on the main issues underlined in the operative paragraph 2, sub-paragraphs (a), (b), and (c), and operative paragraph 8 of the resolution 1390(2002).

(1) Operative paragraph 2, sub-paragraph (a) of the resolution 1390(2002)

i) With respect to the operative paragraph 2, subparagraph (a) of the resolution 1390(2002), the Ministry of Justice initiated the Government Emergency Ordinance no. 159 / 2001 for the prevention of use of the financial system for the financing of acts of terrorism, published in the Official Gazette no. 802 of 14 December 2001[2].

Under the provisions of article 1 of this Emergency Ordinance:

"All banking and financial transaction between residents and non-residents and between non-residents, including current and capital account transaction and currency exchange operations, as defined by the currency regulations issued by the National Bank of Romania, for or on behalf of the natural or juridical persons listed in the annex, which is an integral part of this Emergency Ordinance, shall be prohibited".

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[2] see Annex 4

"The assets of the persons listed in the annex shall be frozen, and all transfer by whatever mode, including banks, shall be prohibited".

The annex at this Emergency Ordinance includes identification data provided by the United Nations Security Council in respect of persons suspected of financing certain acts of terrorism. The procedure for the drawing up and updating of the annex by decision of the Government is regulated in article 2.

The text of the Emergency Ordinance no. 159 2001 is attached in the Annex 4 of this report.

ii). In order to apply the provisions of the Emergency Ordinance no. 159/2001, according to articles 6 and 8, the National Bank of Romania issued the Norms no. 5, containing the necessary documentation for authorisation of the banking and financial operations, published in the Official Gazette of Romania no. 847/28 December 2001.

After the adoption of the Governmental Decision no. 918/2001[3], the National Bank of Romania has requested the banks, the Romanian juridical persons entities and branches of foreign banks in Romania to provide any information about persons entities mentioned in the lists issued by the Committee established by the resolution Committee 1267, or on the existence of funds and financial resources on their name and transactions/transfers carried out between 1 January 1999 and 1 October .2001, where one of the parties is a person/entity from the mentioned ones, as well as on any transfer/transaction carried out after 1 October 2001.

Until now, the banks have informed the National Bank of Romania that the persons/entities mentioned in the lists issued by the Committee 1267 do not hold any funds or other financial assets. Only 12 banks identified persons with identical or similar names with those on the lists. The National Bank of Romania has also requested the Foreign Intelligence Service, the Romanian Intelligence Service, the Ministry of Foreign Affairs and the Ministry of the Interior, to identify and certify the affiliation of the persons/entities considered by the banks as being liable to be on the lists issued by the international organisations. The results of the investigations showed that the persons identified by the banks are not the ones on the lists.

[3] see Annex 1

The information gathered by the National Bank of Romania have been sent for identification and also for turning to account to the Foreign Intelligence Service, to the Romanian Intelligence Service and to the Inter-Ministerial Committee set up for the management of this matter. The National Bank of Romania has maintained a permanent contact with these institutions in order to identify exactly the suspected persons entities who carry out terrorist activities.

Also, according to article 8 (2) of the Emergency Ordinance 159 2001 "the National Bank of Romania, the National Securities Commission and the Insurance Oversight Commission shall issue, within 10 days from the entering into force of the present Emergency Ordinance, the regulations regarding the necessary documentation on financial-banking operations submitted for approval."

Following the issuance of the above-mentioned regulations, the National Bank of Romania issued Regulation no. 5 21 December 2001, according to which, all operations set forth in article 6 of the Emergency Ordinance no. 159/2001 that are carried out by the persons or on behalf of the private persons or juridical entities stipulated in the list issued by Ministry of Public Finance according to the provisions of the article 5 of the above mentioned Ordinance and based on those issued by the Committee 1267, are under the previous approval.

The National Bank included as a distinct objective in the annual supervision program, the examination of the compliance of the Romanian banking system with the provisions of the Emergency Ordinance no. 159/2001.

iii) The Ministry of the Interior set up a database containing information about foreign companies and individuals carrying out activities in order obtain funds or financial assets, that could be available for or to the benefit of Usama bin Laden, the members of Al - Qaida organisation or other entities, directly or indirectly connected with the above mentioned entities.

After conducting serious investigations, the Ministry of the Interior did not identify any assets belonging to Usama bin Laden or individuals or entities associated with him as contained in the lists issued by the Committee 1267.

At the moment, 169 foreign persons are under the Police investigations, for committing offences on the Romania territory (mainly of economic and financial nature).

The investigations are aimed at establishing whether these persons have financed terrorist activities or not.

iv) The Inspectorate for Preventing and Countering Terrorism, following the National Bank of Romania's warning – based on the consolidated lists issued by Committee 1267 has undertaken a complex vetting on persons, companies, non-governmental organisations, suspected of supporting and financing the terrorist organisations having networks in Romania. The action intended to identify and monitor the financing networks of these groups.

In this context, the data basis of over 150 persons, 40 companies and 10 non-governmental organisations were vetted. All the operative measures have been taken in order to identify, prevent and counter any financial activity that might support the terrorist activities or organisations.

The intelligence information collected did not confirm that the above entities undertook terrorist activities on the Romanian territory. There were also identified 6 persons having names that contain similar elements to those existing on the lists issued by Committee 1267.

The Inspectorate for Preventing and Countering Terrorism has also undertaken activities in order to identify and monitor the financial activities that might jeopardise the Romanian national security, especially those meant to collect funds or financial resources for terrorist activities and organisations using legal or illegal ways.

(2) Operative paragraph 2, subparagraph (b)

i). The Ministry of Justice underlined that the provisions of the Criminal Code, the Criminal Procedure Code, as well as the provisions of the Emergency Ordinance no. 141/ 2001[4], for punishment of certain terrorist acts and breaches of the peace, and the Law no. 296/2001 concerning the extradition, and other normative documents represent the internal law which apply with respect to the implementation of operative paragraph 2, subparagraph b of the resolution 1390(2002), regarding the movement of any member of

[4] see Annex 2

Taliban and of "Al-Qaida" organisation, who participated in the financing, planning, facilitating, preparing, committing or supporting the terrorist acts.

The text of the Emergency Ordinance no. 141 2001 for punishment of certain terrorist acts and breaches of the peace is attached in the Annex 2 of this report.

ii) The General Inspectorate of the Border Police within the Ministry of the Interior has given the instruction of ENP ("Entry Not Permitted") at the borders, aimed at retaining persons whose names are contained on the list issued by the Committee1267. To present, there have been no such cases at the Romanian borders.

A permanent evaluation system has been set up in order to control the flow of foreign citizens coming from high migratory risk countries, who apply for entering or for prolonging their stay in Romania, with special emphasis on monitoring the foreign citizens originated in regions mentioned in the United Nations relevant resolutions, as follows:

- an improved procedure of the entry visa application, in order to establish most precisely the purpose of the voyage;
- careful examination of the visa prolonging applications (documents for setting up companies, associations, leagues, foundations, other entities), in order to identify the activities that could be used to cover up terrorist acts;
- develop, together with the Romanian Intelligence Service and other appropriate agencies, specific operations aimed at checking the activities of persons entities suspected of carrying out activities related in any way to terrorism.

The Ministry of the Interior has maintained a permanent contact with the national governmental agencies with respect to exchange any information on such activities.

Also, the Ministry of the Interior has maintained a strong co-ordination with foreign specialised structures (Federal Bureau of Investigation, European Community similar intelligence structures) with the aim at exchanging information about the actions of persons entities belonging to radical, fundamentalist or terrorist organisations in Romania, which had been identified as likely to commit hostile acts or to obtain funds for financial supply and support for those organisations.

From 11 September 2001, intelligence information have been provided to the United Stated intelligence structures representatives, and a full support was given to the vast investigation of the suspects and of the root causes of the terrorist event.

To present, the Ministry of the Interior has not found any cases involving foreign citizens applying for the refugee status in Romania, suspected of conducting or committing terrorist acts. In such cases, appropriate measures will be taken and the notification of the relevant governmental agencies will be made in due time.

iii). In the "Plan of Actions for combating terrorism" adopted by the Ministry of Public Works, Transportation and Housing precise tasks are stipulated for the specific transport domains: road, air, maritime, railway and subway. The experts of this governmental agency have been involved in the elaboration and implementation of the national strategy for the prevention and combat of terrorism in the field of transport and public works, which is under adoption procedure by the Supreme Council of National Defence.

By the Order no. 1350/2001 of the minister of public works, transport and housing, a Working Group for situations affecting the national safety has been established. This group, by means of the "Special Task Force", as its technical secretariat, shall aim at:

- collaborating with the specialised agencies of the central administration so they be permanently informed about the updated list regarding the persons, groups and associations affiliated to the Al-Qaida organisation or the Taliban Regime, set up by the Committee 1267, in order to inform the companies which are under the co-ordination of the Ministry of Public Works, Transportation and Housing;
- collaborating with the companies specialised in shipping activity, in order to prevent the entry of military materials and persons that are connected with the above-mentioned groups.

(3) Operative paragraph 2, subparagraph (c)

i) the Ministry of National Defence of Romania has worked closely with its counter-parts in order to prevent the transfer of arms-related and proliferation-related

items to countries and organisations or regions which are under sanctions regimes imposed by the United Nations Security Council, or other partners (European Union or United States of America).

In this respect, the Ministry of Defence has undertaken the following measures in order to prevent transfer of military-related items to states or organisations designated as sponsors of terrorism:

- the resolution 1390 (2002) of the United Nations Security Council was distributed according to the legal procedures and internal responsibilities of each structure within Romanian strategic exports control system;
- the list of countries under United Nations Security Council embargo has been permanently updated in close connection with the relevant United Nations resolutions with respect to preventing transfers of military items to prohibited destinations;
- the authorised Romanian companies have been permanently informed with respect to any change made in the „political spectrum" of military items trade, being warned to refrain from establishing trade connections with representatives of prohibited destinations;

Within the export-licensed proceedings, the representatives of the Romanian Ministry of National Defence have taken into account the following major aspects:

- the end-user certificates shall not be faked and must reflect the real destination and the end user;
- the end-user statement must contain the strong commitment of the end-user that it will not divert the items subject of the transaction to prohibited destinations;
- the financial and criminal record of the economic agent is investigated along with its honesty in declarations and past trade activities.

ii) With respect to the activity of the state company "ROMTEHNICA" (one of the major Romanian companies trading arms and armaments):

- this company has no connection with Taliban groups or with Al-Qaida organisation and none of the representatives of the above mentioned Romanian company has made any attempt to contact or connect in any way with these terrorist groups in order to establish trading relationships;

- the company did not receive any requests involving these destinations from its foreign partners;
- the board of directors has instructed the employees of this company to comply with the policy of the United Nations;
- the company informed its clients that it operates under strict governmental control and in full compliance with the international regulations;
- for all its foreign trade transactions, ROMTEHNICA co-operates with the National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons (NACSEPCW), the relevant governmental agency issuing export licenses.

iii) The General Directorate for Defence Intelligence (GDDI) represents the Ministry of Defence specialised body responsible for collecting, processing and disseminating intelligence information on internal and external risks and threats to national security, in the military field. The GDDI has the legal competence to collect intelligence data on terrorism, drugs and arms trafficking, and illegal immigration when this information is relevant for defence and defence-related topics. Consequently, GDDI is currently monitoring the implementation of the above mentioned resolution and other relevant United Nations Security Council resolutions.

iv) The National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons (NACSEPCW) initiated the Government Ordinance no. 158/1999 on exports and imports of strategic goods, which regulates the government policy in this field according to the principles and measures adopted by United Nations member states to fight international terrorism.

In this respect, NACSEPCW initiated Government Decision no. 918/2001, which implements, at national level, the provisions of United Nations Security Council resolution 1333(2000). According to the above mentioned document, the Romanian governmental agencies, persons and juridical persons/entities, natural and juridical foreign persons entities, carrying out financial and economic activities in Romania have to comply with this Decision 918/2001.

An Inter-ministerial Council was established by means of Government Emergency Ordinance no. 153 2001 in order to fully respect the provisions of resolution 1373(2001).

As the only governmental agency dealing with licensing the export and import controls of strategic goods, NACSEPCW co-operates with other relevant governmental agencies, particularly with the intelligence agencies, for exchanging data on companies dealing with trading of strategic goods, mainly with those that export arms, ammunition and military equipment.

In 2001, NACSEPCW also signed several co-operation protocols and plans of action with the General Customs Directorate, the Strategic Economic Investigation Division (Ministry of the Interior), the Chamber of Commerce and Industry of Romania and the National Commission for Control of Nuclear Activities.

Starting with April 2001, NACSEPCW has initiated a program addressed to Romanian companies carrying out trade operations with strategic goods, which is meant to keep those companies informed in order to comply with the relevant national legislation. The program includes a range of various activities of dissemination of specific information in this field: national and regional seminars, round tables, consulting, thematic documentation, etc.

Starting with March 2001, NACSEPCW launched its own web-site (www.ancesiac.ro) in order to provide the necessary information to Romanian companies more rapidly and efficiently.

Based on 10 years of experience in the field of licensing strategic goods, the NACSEPCW has as a main target to eradicate all risks related to strategic goods diversion by strengthening the control in pre-licensing and post delivery stages. The strengthening of the control of strategic goods is based upon the information exchanged between the specialised agencies as well as on detailed analysis of all export license applications, specially of those dealing with arms, ammunition and military equipment. This evaluation is based on the Security Council relevant resolutions imposing sanctions regimes to countries or organisations, and the list of countries which subject to restrictive

measures on arms trade, as well as the lists of persons and entities involved in terrorist acts or related to terrorist networks as issues by Committee 1267.

NACSEPCW drew up a list of such persons and entities on the basis of the lists provided by the United Nations, the European Union, and the United States of America. The Agency also disseminated this list to all ministries and departments involved in the national system of strategic goods export control and to companies dealing with such trade in order to disseminate the information.

The NACSEPCW is continuously preoccupied to ensure the appropriate transparency in relation with governmental institutions and in relation with Romanian companies with respect to spread information related to persons and entities involved in terrorist acts.

The implementation of the Internal Control Program has been initiated in November 2001 and has been addressed to Romanian companies that carry out export of strategic goods. This is meant to assess the trade policies of Romanian companies, with the purpose of developing an inner company management dedicated to export control.

(3) Operative paragraph 8

The Inspectorate for Preventing and Countering Terrorism of the Romanian Intelligence Service acted in order to:

- verify a great number of suspects enlisted on the documents issued by the international organisations or by our partners. Primary information about terrorist threats on national or international level was also vetted, with special focus on the Al-Qaida suspects;
- identify, monitor and combat any act of the terrorist extremist organisations' entities persons, that might exist in Romania and could directly or indirectly jeopardise the national security;
- identify and assess the risks, due to the international migration, in order to reduce or eliminate any possible human resources of foreign terrorist cells in our country;
- combat the terrorist propaganda and proselyte actions among both foreign and Romanian citizens;

- combat the illegal activities of manufacturing, possessing, selling and trafficking weapons, ammunition, toxic, radioactive, explosive or bacteriological substances in Romania, including the transit of the above materials, using the help of terrorist groups or individuals on the Romanian territory;
- assess and fight terrorist organisations and internal and transnational organised crime structures in their common actions against national security;
- evaluate the trends of international terrorism and the measures adopted world-wide to combat this phenomenon;
- co-operate and provide intelligence information concerning the international terrorism or transnational illegal activities.